

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

VICTOR TAGLE,

Plaintiff,

v.

CAL-TRANS, *et al.*,

Defendants.

Case No. 3:15-cv-00448-MMD-VPC

ORDER ADOPTING AND ACCEPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
VALERIE P. COOK

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (ECF No. 13) ("R&R"), recommending dismissal of the complaint without prejudice and without leave to amend. Plaintiff had until May 15, 2016 to object. To date, no objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and

1 recommendation to which no objections were made); *see also Schmidt v. Johnstone*,
2 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in
3 *Reyna-Tapia* as adopting the view that district courts are not required to review "any
4 issue that is not the subject of an objection."). Thus, if there is no objection to a
5 magistrate judge's recommendation, then the court may accept the recommendation
6 without review. *See, e.g., Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without
7 review, a magistrate judge's recommendation to which no objection was filed).

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
9 determine whether to adopt Judge Cooke's R&R. The R&R recommends that this action
10 be dismissed without prejudice based upon Plaintiff's failure to state a colorable § 1983
11 claim against any of the named defendants.¹ Upon reviewing the R&R and the
12 complaint, this Court agrees with Judge Cooke's recommendation and will adopt the
13 R&R in full.


14 It is therefore ordered, adjudged and decreed that the Report and
15 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 13) is accepted and
16 adopted in its entirety.

17 It is ordered that this action is dismissed without prejudice and without leave to
18 amend.

19 It is further ordered that Plaintiff's motion for transfer of records (ECF No. 8) and
20 motion for records/court case documents (ECF No. 9) are denied as moot.

21 The Clerk is directed to close this case.

22 DATED THIS 14th day of July 2016.

23
24 
25 MIRANDA M. DU
26 UNITED STATES DISTRICT JUDGE

27 ¹The R&R (ECF No. 13) that was mailed to Plaintiff was returned as
28 undeliverable. (ENF No. 14.)